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## Consequences of COVID-19 Pandemic on the Example of Quarantine and Isolation in the Polish Legal System

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Submitted 01/09/20, 1st revision 05/10/20, 2nd revision 26/10/20, accepted 17/11/20

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**Abstract:**

**Purpose:** The COVID-19 pandemic caused the need to apply specific legal structures relating to the separation of healthy and sick persons in order to prevent the spread of the virus, which has an extremely strong impact on Polish society, as well as on other European societies, which shows that these regulations are worth analysing.

**Design/Methodology/Approach:** The publication uses research methods characteristic of the social sciences, including the dogmatic method focusing on the analysis of the legal text and the analytical method relating to the results of analyses and scientific research.

**Findings:** The Polish legislator is looking for the right balance between the effective use of the separation of persons who have been exposed to the SARS-CoV-2 virus in order to counteract the spread of the virus and the severe social and economic consequences relating primarily to the mental health problems of persons in separation. In this case, social problems emerge, including family problems (including, in extreme cases, the intensification of domestic violence), as well as problems affecting entrepreneurs who are struggling with lower labour productivity in those industries where remote work has so far been unheard of (e.g. public services) and paralysis of the work system due to sickness of employees and sanitary restrictions.

**Practical Implications:** The analysis showed that frequent changes to the rules of quarantine and isolation, as well as the introduction of non-legal terms such as "self-isolation", result in confusion and feelings of insecurity for both employees and employers. The ineffective health monitoring system of the persons in separation also causes a significant social problem related to the prolonged isolation of persons who qualify for return to normal activity in the community.

**Originality/Value:** The study presents an original approach to the problem of quarantine and isolation, not only in terms of legislative changes introduced during the pandemic and their consequences for Polish society, but indicates also problems of a universal nature, occurring in all separated persons, regardless of the legal system that regulates the principles of this isolation.

**Keywords:** Isolation, quarantine, social consequences of separation.

**JEL codes:** I15, I18, J38.

**Paper type:** Research article.

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## 1. Introduction

The COVID-19 pandemic causes very significant legal and social effects, relating primarily to the limitation of human rights and freedoms, which are factors that strengthen the spread of the virus (e.g. freedom of assembly, freedom of movement around a given country), but also break the existing rules of obtaining, using and transferring information between various entities that need it for the proper implementation of statutory tasks related to preventing infectious diseases. In the light of Polish regulations, a state of epidemic should be understood as a legal situation introduced in a given area in connection with the occurrence of an epidemic in order to undertake the anti-epidemic and preventive measures specified in the Act to minimize the effects of the epidemic. A state of epidemic threat is a legal institution regulated and defined for years in the Act on preventing and combating infections and infectious diseases in humans. It is not the same as the state of emergency defined in the Constitution. It is a legal instrument that can be used by the state in the event of an epidemic risk. Such a state is temporary (Paszowska, 2020b).

In order to control the spreading virus, the legislator constantly introduces various legal constructions, but also organizational solutions, especially in the field of obtaining and processing information relating to incidents of infection, spread of the virus and other important parameters from the perspective of public administration authorities trying to minimize mortality and negative economic and social effects. An example of this type of organizational and technical solutions, the purpose of which is to coordinate activities in relation to persons in isolation, is the National Register of Patients with COVID-19. The aim of the Register is to help control potential outbreaks of SARS-CoV-2 infection and enable long-term observation of COVID-19 patients after discharge from hospital or isolation.

All these tools and solutions constitute the so-called epidemiological supervision, i.e. observation of an infected person or a person suspected of being infected, without restricting their freedom of movement, performance of sanitary and epidemiological tests on this person in order to detect biological pathogens or confirmation of the diagnosis of an infectious disease, and collection, analysis and interpretation of information about the circumstances and consequences of infection (individual supervision), as well as constant, systematic collection, analysis and interpretation of information about the number of cases or other processes occurring in the field of public health, used to prevent and combat infections or infectious diseases (general supervision). In the event of a pandemic, this supervision is enriched with instruments restricting personal freedom and freedom of movement.

This study will primarily include analyses relating to the legal situation of persons remaining in quarantine or in isolation, considering the fundamental differences

between these two types of separation, as well as the social consequences of being separated from other persons.

## **2. Terminological Issues**

When it comes to the considerations relating to the legal framework of the solutions introduced by the Polish legislator relating to quarantine and isolation, these terms are not new, as they already functioned on the basis of the Act on preventing and combating infections and infectious diseases in humans (hereinafter referred to as: APCI).

According to Art. 2 point 12 of the APCI, quarantine means a separation of a healthy person who has been exposed to infection in order to prevent the spread of particularly dangerous and highly infectious diseases. Quarantine is temporary and has a preventive purpose. It is related to a ban on leaving the place of quarantine. During the quarantine, it may turn out that the person undergoing it has become ill and then the statutory instrument used is changed to isolation.

However, in the case of isolation, there are two types of separation:

- a) isolation understood as a separation of a person or group of persons suffering from an infectious disease, or a person or group of persons suspected of having an infectious disease in order to prevent the transfer of a biological pathogen to other persons (Art. 2 point 11 of the APCI); in this case, this applies not only to an isolation facility that is a place intended for isolation, including places that have been transformed into isolation facilities (e.g. sanatoriums, dormitories, hotels), but also isolation carried out in hospital conditions,
- b) home isolation understood as a separation of a sick person with a course of an infectious disease that does not require absolute medical hospitalization in the place of residence or stay in order to prevent the spread of particularly dangerous and highly infectious diseases.

Home isolation is used in patients who test positive for SARS-CoV-2 coronavirus and have no symptoms of the disease or have mild, moderate symptoms of COVID-19 disease (e.g. raised temperature, cough, sore throat, weakness) (Paszowska, 2020a).

Detailed legal regulations on quarantine and isolation related to COVID-19 are included in the Regulation of the Minister of Health of 6 April 2020 on infectious diseases resulting in the obligation of hospitalization, isolation or home isolation and the obligation of quarantine or epidemiological supervision (Journal of Laws of 2020, item 607, as amended; hereinafter referred to as: Regulation of 6 April 2020). Significant changes to the above Regulation were introduced by the Regulation of the Minister of Health of 1 September 2020, effective from 2 September 2020,

amending the Regulation on infectious diseases resulting in the obligation of hospitalization, isolation or home isolation, and the obligation of quarantine or epidemiological supervision. In addition, due to the worsening epidemic situation, a new organizational standard of care for a patient suspected of being infected or infected with the SARS-CoV-2 virus was introduced, regulated in the Regulation of the Minister of Health of 8 October 2020 amending the regulation on infectious diseases resulting in the obligation of hospitalization, isolation or home isolation and the obligation of quarantine or epidemiological supervision (hereinafter referred to as: Regulation of 8 October 2020). The above organizational standard covers tasks undertaken in connection with: 1) referring a patient to isolation or home isolation; 2) referring a patient to hospital treatment; 3) ordering diagnostic tests for SARS-CoV-2 infection.

Pursuant to § 3b of the Regulation of the Council of Ministers of 9 October 2020 on the establishment of certain restrictions, orders and bans in connection with a state of epidemic (Journal of Laws, item 1758, as amended; hereinafter referred to as: RERO), if the sanitary inspection authorities quarantine, isolate or home isolate a person due to exposure to disease caused by SARS-CoV-2 virus, information about this fact is placed in the ICT system. The decision of the sanitary inspection authority is not issued. Information on placing a person in quarantine, isolation or home isolation may be provided to that person orally, via ICT or communication systems, including by phone.

In practice, this distinction, relating to quarantine and isolation, does not function very well because citizens are often unable to correctly identify the differences between these states, focusing on the fact that in both cases they are separated from other persons, which is a particular severity.

### **3. Rules for Applying Quarantine and Isolation**

As indicated in the previous considerations, the dynamically developing epidemic situation results in the legislator introducing changes to the rules of quarantine in order to increase the effectiveness of these instruments in combating the spread of the virus.

Persons who have been exposed to an infectious disease or have been in contact with a source of a biological pathogen, and do not show disease symptoms, if so decided by sanitary inspection authorities, are subject to compulsory quarantine for a period not longer than 21 days, counting from the day following the last day of exposure or contact, respectively (Art. 34 paragraph 2 of the APCI). Mandatory quarantine may be applied to the same person more than once, until it is established that there is no threat to human health or life. However, for specific infections/infectious diseases, special regulations may indicate specific lengths of quarantine periods. In the case of

SARS-CoV-2, it was originally 14 days, and currently, after the change of provisions, from 2 September 2020, it is 10 days.

In turn, according to § 5 paragraph 3 of the Regulation of 6 April 2020, the period of compulsory quarantine due to exposure to SARS-CoV-2 infection in persons who did not develop symptoms of the COVID-19 disease, or due to contact with the source of infection ends after 10 days, counting from the day following the last day of exposure or contact, respectively. In justified cases, the state poviát sanitary inspector decides to shorten the quarantine period or to release from it.

Another change introduced in connection with the increasing number of persons in quarantine is the reduction of groups of persons qualifying for the quarantine. Provisions ordering quarantine of the household members were repealed. This applies both to the situation of returning from abroad and to the person who has been exposed to an infectious disease or has been in contact with a source of a biological pathogen but does not show disease symptoms. A person crossing the Polish border, in order to go to their place of residence or stay on the territory of the Republic of Poland, is obliged to undergo a compulsory quarantine lasting 10 days from the day following the crossing of the border. In this case, the sanitary inspection does not issue a decision. The provision ordering quarantine after the return from abroad with persons living together or maintaining a common household was also repealed. Currently, the quarantine is compulsory for the person returning from abroad. Likewise, quarantine of an exposed person – also without household members.

However, a household member will be quarantined if the person with whom they live obtain a positive result of the diagnostic test for SARS-CoV-2. From 3 November 2020 a person maintaining a common household with a person diagnosed with SARS-CoV-2 virus infection or living with such a person, from the date of obtaining a positive result of the diagnostic test by a person diagnosed with SARS-CoV-2 virus infection, is obliged to undergo quarantine for a period of up to 7 days from the end of isolation of the person with whom they run a common household or live. This solution is automatic, because in this situation the decision of the sanitary inspection authority is not issued (Baranowska, 2020a).

Rules for isolation and home isolation are specified separately. Pursuant to § 2 paragraph 2 of the Regulation of 6 April 2020, compulsory isolation or home isolation applies to persons who have been diagnosed with SARS-CoV-2 virus infection, or with a disease caused by SARS-CoV-2 (COVID-19), or persons suspected of being infected or ill, for whom a doctor or a medical assistant has not applied compulsory hospitalization. Persons who have mild COVID-19 symptoms do not always require a hospital stay. An indirect type of isolation is the stay in the previously mentioned isolation facility. The provisions stipulate, inter alia, that a nursing visit in isolation facilities takes place no less than twice a day. During this visit, the general condition of the patient is assessed, body temperature is measured,

and medications prescribed by the doctor are administered. The third solution is when the doctor recommends home isolation so that they do not expose others to infection.

Persons referred for home isolation, diagnosed with SARS-CoV-2 virus infection or with a disease caused by SARS-CoV-2 (COVID-19), not later than on the seventh day of isolation, receive a text message to the telephone number indicated in the ICT system to contact a primary care (PC) physician for information on the duration of home isolation. Pursuant to these rules, isolation is completed: 1) after three days without fever and without symptoms of respiratory infection, but not earlier than 13 days from the day of the onset of symptoms – in the case of a patient with clinical symptoms (in hospital isolation or in an isolation facility, unless the doctor caring for the patient extends the period of this isolation, as well as in home isolation, unless the PC physician, who provided telephone consultation or consultation at home, extends the period of this isolation not earlier than on the eighth day of its duration); 2) after 10 days from the date of obtaining the first positive result of the diagnostic test for SARS-CoV-2 – in the case of a patient without clinical symptoms, unless the PC physician, who provided telephone consultation or consultation at home, extends the period of this isolation not earlier than on the eighth day of its duration.

In the case of medical professionals (e.g. doctors, nurses) or persons taking care of persons staying in nursing homes, or in clinically justified situations, the termination of isolation of a patient who has obtained a positive result of the SARS-CoV-2 diagnostic test takes place after a double negative result of this test with samples collected at intervals of at least 24 hours, regardless of the number of days since the last positive result and the nature of the clinical symptoms.

Another special case are persons who have immunodeficiencies, for whom the isolation period may be extended, adequately to the state of health, up to 20 days. In this case, it does not matter whether these persons practice a medical profession (Baranowska, 2020b).

In Polish practice, there are also extra-legal definitions of states of separation, which concern persons who are afraid of getting infected or infecting their relatives. For example, there are groups of persons who apply the so-called self-isolation in cases where the legislator did not provide for the reasons for applying quarantine or isolation. This category of voluntary separation is not reflected in any legal provisions, but may be used, *inter alia*, thanks to the use of remote work by employees with concerns, performed from the place of separation.

These are the most important aspects of the practical implementation of the current organizational standards for the application of quarantine and isolation, the aim of which is primarily to find a balance between ensuring the safety of citizens and the

shrinking capabilities of the Polish health care system, where the supply of places of isolation, especially in the field of intensive care, is definitely too low.

#### **4. Selected Aspects of Social Consequences of Separation**

Regarding quarantine and isolation, numerous social problems have arisen, relating mainly to the functioning of the persons affected by these restrictions. Moreover, many of these problems relate not only to the functioning of these persons in society during and after the separation, but also to issues of significant economic importance, both from their perspective and from the point of view of employers and the economy as an aggregate of partial solutions affecting its general condition.

In the first place, there was the problem of performing work by persons who remain in separation. This issue was important not only for employers with limited human resources, but also for employees, because failure to perform work during the period of quarantine and isolation means the use of the regulations of the social insurance system, according to which, as a rule, a person who does not perform work due to their incapacity receives only 80% of the salary. As a consequence, the legislator had to develop the existing structures concerning the performance of work outside the workplace to a much wider extent. For this reason, appropriate systemic actions have been taken to introduce special solutions aimed at counteracting the negative economic and social effects of this situation.

According to Art. 3 paragraph 1 of the Act of 2 March 2020 on special solutions related to the prevention, counteraction and combating of COVID-19, other infectious diseases and crisis situations caused by them (i.e. Journal of Laws of 2020, item 1842, hereinafter referred to as: the special act), during the period of validity of a state of epidemic threat or a state of epidemic, announced due to COVID-19, and within 3 months after their cancellation, in order to counteract COVID-19, the employer may instruct the employee to perform, for a specified period of time, work specified in the employment contract, outside the place of its permanent performance (remote work). The employer decides about such organization of work, with no need to consult it with employees, neither collectively (agreement with employees' representatives), nor individually (agreement with each employee). This form of work appears in the Polish legal system for the first time.

However, in view of the situation of an isolated employee, the issue of being able to work in isolation when the employee is sick becomes particularly important. The legislator did not clearly resolve this problem, which causes a lot of confusion in practice. While the period of quarantine relating to a healthy person is not in doubt, it is different for a sick person. Supporters of working during isolation argue that isolation applies not only to sick persons, i.e. with COVID-19 symptoms, but also to persons infected with SARS-CoV-2 (the so-called "asymptomatic" persons) and persons who are suspected of infection or disease (§ 2 paragraph 2 of the Regulation

of 6 April 2020). However, this argument is definitely insufficient due to the lack of a clear position of the legislator. On the one hand, often the employer, but also the employee, are interested in performing work during isolation (at least in cases of the initially mild course of the disease), but on the other hand, the course of the development of disease symptoms can be so unpredictable and often instant that the employer's consent to work during isolation is a high-risk solution. Especially since it is not known how the effort associated with working at the computer affects the course of the disease. For this reason, leaving the freedom to shape the relationship between the employer and the employee after confirming the employee's infection is an obvious oversight of the legislator, which may have negative social effects (an example of which is the situation where a coughing teacher with raised temperature conducts remote lessons for particularly sensitive students in grades 1-3) . One should agree with the position that if the intention of the legislator were to enable such work in isolation, the provisions would state this (Wrońska-Zblewska, 2020). Therefore, performing work during isolation is not possible.

Concluding the considerations relating to the social consequences of the pandemic in terms of shaping the labour market, it is worth to pay attention to one more, very dangerous phenomenon occurring in the Polish reality. Some employees, for fear of stigmatization of the society, or even of losing their job, do not inform their employer about contact with a sick person. This applies both to employees who are subject to the obligatory quarantine and those not covered by such an obligation, and in extreme cases also to persons in isolation who present sick leave obtained from doctors for other reasons. The behaviour of both groups may be the basis for disciplinary dismissal under Art. 52 § 1 point 1 of the Labour Code, justified by a serious breach by the employee of their basic duties.

However, such a breach must obviously be the fault of the employee, which means that such an employee must be attributed intentional misconduct or gross negligence. If an employee did not submit to quarantine despite such an obligation and by appearing at the workplace, endangered the health and potentially even the life of co-workers, they grossly violated not only the generally applicable provisions (imposing the obligation to quarantine), but also their basic employee duties (for example regarding health and safety at work). Therefore, attributing blame to the employee will not be a problem in this case, because they were aware of the contact with an infected person and the obligation to quarantine (Siudem, 2020). Moreover, this problem also applies to employers – micro and small entrepreneurs who, while informing the relevant services about their situation, due to the fact that they have daily contact with employees, should simultaneously suspend the operation of the workplace. However, due to the difficult financial situation caused by the pandemic, they do not do it; they often stay at home or go to work when the disease is asymptomatic, and employees are not even informed about the existing risk (Gorostiza, 2020). These pathological phenomena intensify with the progressing pandemic and increasing financial problems of entrepreneurs, as well as the



increasing number of persons who lose employment due to reduced social and economic activity.

There is no doubt that the spread of the COVID-19 virus will slow down if the financial support system is effective, because then eligible persons will adhere to greater social isolation. As a result, persons who have no choice but to work and thus have to leave their homes every day can now stay at their homes. In this way, the pandemic can be overcome easier and faster. Fast direct money transfers are the best solution because they are the most effective and flexible alternative to the threat. In this case, economic uncertainty is of particular importance both for the attitude of citizens to work and their psychological well-being. The goal of public authorities is to protect people from income cuts during the pandemic and to meet their daily, especially basic needs. This is necessary, given that in practice people are still encouraged to spend money to avoid the risk of a slowdown or even a halt to the economy. This stems from the belief that a fall in demand will lead to the closure of many companies and that unemployment will increase. As a consequence, the demand for social welfare will increase, which will become another problem, along with the rising level of infections and a huge increase in public health spending (Yorğun, 2020).

Another social problem of significant importance is the issue of the mental well-being and even the protection of the mental health of persons in quarantine and isolation. In this respect, there are many partial problems, which include: 1) the feeling of being observed and controlled; 2) the feeling of isolation; 3) the escalation of negative phenomena in family life (marital tensions, domestic violence).

With regard to the first aspect, it should first of all be noted that a person subject to compulsory quarantine under the provisions on preventing and combating infections and infectious diseases in humans in connection with the suspected SARS-CoV-2 virus infection installs on their mobile device software provided by the minister responsible for computerization matters, which is used to confirm compliance with the quarantine obligation and uses it to confirm the fulfilment of this obligation. The obligation to install and use the software does not apply to persons who are visually impaired (blind or near-blind), persons who have made a declaration that they are not a subscriber or user of a telecommunications network or do not have a mobile device enabling the installation of this software. This declaration is submitted under pain of criminal liability for submitting a false declaration.

In addition, if the sanitary inspection authorities quarantine a person due to exposure to disease caused by the SARS-CoV-2 virus, isolate or home isolation a person, information about it is placed in the ICT system to which the authorities performing pandemic tasks and the employer have access. Information about placing a person in quarantine, isolation or home isolation may be provided to that person orally, via ICT systems or communication systems, including by phone. In addition, the

implementation of compulsory quarantine or home isolation is controlled by the bodies of the State Sanitary Inspection and the Police, Border Guard, Military Police, or the Territorial Defence Forces. As a consequence, these persons are not only under electronic surveillance, with the help of a mobile application that provides, *inter alia*, tasks to be performed to confirm whereabouts (e.g., to take a selfie). This situation is supplemented by visits of the representatives of the uniformed services, which check whether a given person is at the indicated address. For some persons, especially those who are sensitive and value their freedom, this restriction is unacceptable.

Secondly, many persons, due to their family situation, and often by choice – to protect uninfected family members – spend the period of quarantine or isolation alone, which causes a feeling of loneliness. The situation was manifested, *inter alia*, in the impoverishment of the possibility of contact with other people, difficulties in participating in social or professional life. The manifestations of persons' reactions at that time are interesting. This worsens the physical and mental well-being, makes a person less concerned about their own health and health of others. As a consequence, loneliness can be a factor in influencing adherence to recommendations during a pandemic. Forced separation is more severe for persons who are already single than for persons with a rich network of relationships. As a result, such individuals may be less likely to follow the social distancing recommendations. So, when it comes to the social distancing strategies recommended by WHO in the fight against the COVID-19 pandemic, loneliness can reduce the effectiveness of their implementation in many ways (Okruszek, 2020).

Research conducted in the current situation has shown that the assessment of the frequency of contacts with others is of greatest importance, both for loneliness and satisfaction with life. This probably results from the fact that contacts with other people determine the belonging of an individual to various social groups and are a determinant of social networks to which the individual belongs. In this way, the need for affiliation can be satisfied, which can result in a better assessment of the quality of life and satisfaction with it. However, if a person is deprived of this need, they may experience loneliness (Kosowski and Mróz, 2020).

The third aspect of quarantine and isolation relates to the problem of the crisis of family life, including domestic violence. Frustration at closure, problems with work, ubiquitous uncertainty, and fear for the future drove many into the arms of this cruel madness and gave "professional torturers" confidence and built a vision of impunity. The lack of physical presence of all these silent defenders, which are often, teachers, school educators, has often dramatic consequences for child victims of domestic violence. The closest family, often hounded by the perpetrator, may not be a sufficient protection for them (Nowina-Konopka, 2020). The increase in cases of violence during the coronavirus pandemic is not a Polish phenomenon. Higher statistics were recorded for each country affected by the pandemic. According to the

HumanDoc foundation dealing with promoting knowledge about important social issues: "The increase in violence at the level of 30-50 percent has already been confirmed by France, Great Britain, China, Australia, Spain and New Zealand". These numbers are also mentioned by other countries. In Spain, between 14 March and 14 April, the police were called 83,000 times, and half of those calls involved persons who had not been victims of violence before. A year earlier, domestic violence interventions were down by almost 26 percent. In turn, the editorial office of EURACTIV, just seven days after the lockdown, reported that in France there was an increase in the number of interventions related to domestic violence by as much as 32 percent (Przemoc, 2020). Concentrated time spent in confinement means that vulnerable persons are more likely to be violated and it is more difficult for them to seek help.

In response to growing concerns, the UK government, among others, has published guidelines on how to recognize domestic violence, how to report it and where, with a list of all services available (How, 2020). The state of epidemic and its consequences for personal freedom must not leave persons at risk of domestic violence without the necessary support. In response to their needs, the Office of the Commissioner for Human Rights, in cooperation with experts from the Feminoteka Foundation, the Centre for Women's Rights and the Blue Line of the Institute of Health Psychology, developed an "Emergency Plan". It contains information on how to obtain help during the pandemic for all persons experiencing domestic violence (RPO, 2020). However, it seems that the basic antidote is still the lack of indifference of the community, which hears the sounds of pathological behaviour in the family and, regardless of the pandemic situation, a quick and decisive reaction of witnesses. Consequently, it should be assumed that although the government orders citizens to stay at home, anyone who feels threatened or experiences domestic violence may still leave the home and seek other shelter. Public authorities are to provide support to all those who are harmed – be it physically or emotionally.

## **5. Conclusions**

In Poland, as in other countries affected by the pandemic, numerous social problems arise related to the non-standard situation in which citizens were placed. These problems are created by law, introducing restrictive conditions of separation, which often, due to the haste in which they are developed, cause problems of interpretation, as it was shown in the example of work performed by an isolated employee. The second aspect that is often treated superficially by public authorities are issues related to the mental well-being and protection of public health of isolated persons, despite the fact that they generate significant problems related to suicide, family disputes, domestic violence, etc. There is still no coherent, sufficient system of psychological support that would reach a greater number of persons remaining in quarantine and isolation, especially those who, due to special circumstances, are quarantined many times.

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